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7380 7590 09/16/2009

SMART & BIGGAR
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OTTAWA, ON K1P 5Y6
CANADA

EXAMINER

GUSSOW, ANNE

ART UNIT

PAPER NUMBER

1643

DATE MAILED: 09/16/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/553,661

10/17/2005

Kenneth Kao

50680-6 /SLR

4668

TITLE OF INVENTION: PYGOPUS IN DIAGNOSIS AND TREATMENT OF CANCER

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$300	\$0	\$1055	12/16/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
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P.O. Box 1450
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

7380 7590 09/16/2009

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/553,661 10/17/2005 Kenneth Kao 50680-6 /SLR 4668

TITLE OF INVENTION: PYGOPUS IN DIAGNOSIS AND TREATMENT OF CANCER

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
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nonprovisional YES \$755 \$300 \$0 \$1055 12/16/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
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GUSSOW, ANNE 1643 435-006000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
- 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____

Date _____

Typed or printed name _____

Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,661	10/17/2005	Kenneth Kao	50680-6 /SLR	4668
7380	7590	09/16/2009	EXAMINER	
SMART & BIGGAR P.O. BOX 2999, STATION D 900-55 METCALFE STREET OTTAWA, ON K1P 5Y6 CANADA			GUSSOW, ANNE	
			ART UNIT	PAPER NUMBER
			1643	
			DATE MAILED: 09/16/2009	

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability	Application No.	Applicant(s)	
	10/553,661	KAO ET AL.	
	Examiner	Art Unit	
	ANNE M. GUSSOW	1643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 15 May 2009.
2. ☒ The allowed claim(s) is/are 1,2,4,8,57-59,61,70-77 and 79-82.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>2/10/06</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

/David J Blanchard/
Primary Examiner, Art Unit 1643

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thuy Nguyen, applicant's representative, on August 27, 2009.

The application has been amended as follows:

The claims have been amended to read:

1. (Currently Amended) A method for determining the presence or absence of a cancer in a patient, wherein the cancer is at least one of cervical cancer, breast cancer, ovarian cancer and lung cancer, the method comprising the steps of:
(a) determining the level of ~~gene~~ expression of hPygo2 ~~gene~~ as shown in SEQ ID NO: 1 or 2 in a biological sample obtained from a patient, and
(b) comparing the level of hPygo2 gene expression in the biological sample to a predetermined cut-off value, wherein the predetermined cut-off value is the level of hPygo2 gene expression in a normal biological sample, to determine whether hPygo2 expression is higher in the biological sample; therefrom determining the presence or absence of cancer in the patient.
2. (Previously presented) A method for monitoring the progression of a cancer in a patient, wherein the cancer is at least one of cervical cancer, breast cancer, ovarian cancer and lung cancer, the method comprising the steps of:
(a) determining the presence or absence of cancer in the patient according to the method of claim 1;
(b) repeating step (a) using a biological sample obtained from the patient at a subsequent time; and
(c) comparing the level of hPygo2 gene expression detected in step (b) to the level of hPygo2 gene expression detected in step (a); and therefrom monitoring the progression of the cancer in the patient.

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3. (Cancelled)

4. (Previously presented) The method according to claim 1 wherein the cancer is ovarian cancer, and the biological sample comprises epithelial ovarian cells.

5-7. (Cancelled)

8. (Previously presented) The method according to claim 1 wherein the level of hPygo2 gene expression is determined by the amount of hPygo2 protein as shown in SEQ ID NO: 2.

9 - 56. (Cancelled)

57. (Previously presented) The method according to claim 1 wherein the cancer is breast cancer, and the biological sample comprises mammary cells.

58. (Previously presented) The method according to claim 1 wherein the cancer is cervical cancer, and the biological sample comprises cervical cells.

59. (Previously presented) The method according to claim 8 wherein the level of hPygo2 protein is determined using an antibody or a fragment thereof that binds specifically to hPygo2 protein.

60. (Cancelled)

61. (Previously presented) The method according to claim 58 wherein the level of hPygo2 gene expression is determined by the amount of hPygo2 protein as shown in SEQ ID NO: 2 and wherein the level of hPygo2 protein is determined using an antibody or a fragment thereof that binds specifically to hPygo2 protein.

62 - 69. (Cancelled)

70. (Previously presented) The method according to claim 2 wherein the level of hPygo2 gene expression is determined by the amount of hPygo2 protein as shown in SEQ ID NO: 2.

71. (Previously presented) The method according to claim 70 wherein the level of hPygo2 protein is determined using an antibody or a fragment thereof that binds specifically to hPygo2 protein.

72. (Previously presented) The method according to claim 2 wherein the cancer is ovarian cancer, and the biological sample comprises epithelial ovarian cells.

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73. (Previously presented) The method according to claim 2 wherein the cancer is breast cancer, and the biological sample comprises mammary cells.

74. (Previously presented) The method according to claim 2 wherein the cancer is cervical cancer, and the biological sample comprises cervical cells.

75. (Previously presented) The method according to claim 74 wherein the level of hPygo2 gene expression is determined by the amount of hPygo2 protein as shown in SEQ ID NO: 2 and wherein the level of hPygo2 protein is determined using an antibody or a fragment thereof that binds specifically to hPygo2 protein.

76. (Previously presented) The method according to claim 1 wherein the cancer is lung cancer, and the biological sample comprises lung cells.

77. (Previously presented) The method according to claim 2 wherein the cancer is lung cancer, and the biological sample comprises lung cells.

78. (Cancelled)

79. (Previously presented) The method according to claim 59 wherein the antibody or fragment thereof binds specifically to hPygo2 protein in the region set forth as amino acids 89-328 of SEQ ID NO: 2.

80. (Previously presented) The method according to claim 61 wherein the antibody or fragment thereof binds specifically to hPygo2 protein in the region set forth as amino acids 89-328 of SEQ ID NO: 2.

81. (Previously presented) The method according to claim 80 wherein the antibody or fragment thereof is a monoclonal antibody or fragment thereof.

82. (Previously presented) The method according to claim 58 wherein the level of hPygo2 gene expression is determined by the amount of hPygo2 protein as shown in SEQ ID NO: 2 and wherein the level of hPygo2 protein is determined using a polyclonal antibody that binds specifically to hPygo2 protein in the region set forth as amino acids 89-328 of SEQ ID NO: 2.

83 - 89. (Cancelled)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANNE M. GUSSOW whose telephone number is

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(571)272-6047. The examiner can normally be reached on Monday - Friday 8:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms can be reached on (571) 272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anne M. Gussow
August 27, 2009

/Anne M Gussow/
Examiner, Art Unit 1643

/David J Blanchard/
Primary Examiner, Art Unit 1643